



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Confirmation No. 7425**
Peter HEROLD et al. : Attorney Docket No. 2006_0446A
Serial No. 10/574,108 : Group Art Unit 1624
Filed March 31, 2006 : Examiner Kahsay Habte
ORGANIC COMPOUNDS : **Mail Stop: AF**

THE COMMISSIONER IS AUTHORIZED
TO CHARGE ANY DEFICIENCY IN THE
FEE FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975.

RESPONSE AFTER FINAL REJECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**RESPONSE UNDER 37.CFR.116
EXPEDITED PROCEDURE
EXAMINING GROUP-----1600**

Sir:

This paper is responsive to the Office Action of April 27, 2009.

Substance of Interview

Initially, Applicants' attorney confirms a telephone discussion with Examiner Habte on July 21, 2009, during which Applicants' attorney expressed his opinion that the requirement in item 3 on page 2 of the Office Action, that Applicants amend the definition of R¹ = [1,4]benzoxazine or file a petition for the restriction requirement, is improper because it constitutes a further restriction requirement, i.e. further to the restriction requirement set forth in the Office Action of September 19, 2008, made final in the Office Action of December 5, 2008, without giving Applicants an opportunity to respond to the further restriction requirement. After some discussion concerning this matter, the Examiner indicated that if Applicants disagree with item 3 of the Office Action of April 27, 2009, they could file a petition.

Response to Election/Restriction (Item 3)

It is the understanding of Applicants' attorney, based on the telephone discussion with the Examiner, that it would be fruitless to request further consideration of the Examiner's requirement that Applicants amend the definition of R¹ to [1,4]benzoxazine. Clearly, the Examiner was not inclined to reconsider his position in this regard, indicating that the matter could be resolved by filing a petition. Accordingly, Applicants are submitting a petition from the restriction requirement concurrently herewith.

Response to Double Patenting Rejections

The Examiner has maintained both of the provisional obviousness-type double patenting rejections that were set forth in the previous Office Action. Applicants again kindly request that the Examiner hold these double patenting rejections in abeyance, pending an indication that the claims of the present application are otherwise in condition for allowance.

The Commissioner is authorized to charge any deficiency or to credit any overpayment associated with this communication to Deposit Account No. 23-0975, with the EXCEPTION of deficiencies in fees for multiple dependent claims in new applications.

Respectfully submitted,

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